

## Azevedo, George

---

**From:** Bauer, Candice  
**Sent:** Tuesday, October 17, 2017 11:40 AM  
**To:** Azevedo, George  
**Subject:** FW: MPCA NPDES limits for phosphorus

\*\*\*\*\*

Candice R. Bauer, Ph.D.  
Chief, Section 2  
NPDES Branch, EPA Region 5, WN-15J  
77 W. Jackson Blvd., Chicago, IL 60604  
Office Phone: 312-353-2106, Fax: 312-697-2668

---

**From:** Bauer, Candice  
**Sent:** Thursday, April 27, 2017 8:32 AM  
**To:** Neuschler, Catherine (MPCA) <catherine.neuschler@state.mn.us>  
**Cc:** Weiss, Steven (MPCA) <steven.weiss@state.mn.us>; Turri, Wendy (MPCA) <wendy.turri@state.mn.us>; Blasing, Nicole (MPCA) <nicole.blasing@state.mn.us>  
**Subject:** RE: MPCA NPDES limits for phosphorus

Thanks Catherine for the note. We look forward to discussing the draft.

\*\*\*\*\*

Candice R. Bauer, Ph.D.  
Chief, Section 2  
NPDES Branch, EPA Region 5, WN-15J  
77 W. Jackson Blvd., Chicago, IL 60604  
Office Phone: 312-353-2106, Fax: 312-697-2668

---

**From:** Neuschler, Catherine (MPCA) [mailto:catherine.neuschler@state.mn.us]  
**Sent:** Monday, April 24, 2017 7:47 AM  
**To:** Bauer, Candice <bauer.candice@epa.gov>  
**Cc:** Weiss, Steven (MPCA) <steven.weiss@state.mn.us>; Turri, Wendy (MPCA) <wendy.turri@state.mn.us>; Blasing, Nicole (MPCA) <nicole.blasing@state.mn.us>  
**Subject:** RE: MPCA NPDES limits for phosphorus

Hi Candice -

You'll see that Rebecca attached our draft nonpoint source fact sheet to her email to Chris. Per my notes, we'll start our conversation next Monday going through that. Thanks!

-Catherine

---

**From:** Flood, Rebecca (MPCA)  
**Sent:** Saturday, April 22, 2017 5:17 PM  
**To:** Korleski, Christopher <korleski.christopher@epa.gov>  
**Cc:** Pierard, Kevin <pierard.kevin@epa.gov>; Bauer, Candice <bauer.candice@epa.gov>; Ireland, Scott <ireland.scott@epa.gov>; Henry, Timothy <henry.timothy@epa.gov>; Prichard, Gary <prichard.gary@epa.gov>;

Lotthammer, Shannon (MPCA) <[shannon.lotthammer@state.mn.us](mailto:shannon.lotthammer@state.mn.us)>; Neuschler, Catherine (MPCA) <[catherine.neuschler@state.mn.us](mailto:catherine.neuschler@state.mn.us)>; Weiss, Steven (MPCA) <[steven.weiss@state.mn.us](mailto:steven.weiss@state.mn.us)>; Turri, Wendy (MPCA) <[wendy.turri@state.mn.us](mailto:wendy.turri@state.mn.us)>; Blasing, Nicole (MPCA) <[nicole.blasing@state.mn.us](mailto:nicole.blasing@state.mn.us)>; Coleman, Jean (MPCA) <[jean.coleman@state.mn.us](mailto:jean.coleman@state.mn.us)>

**Subject:** RE: MPCA NPDES limits for phosphorus

Hi Chris. Thanks for your email summary of our March meeting below. We really appreciate that you ventured up to Minnesota (in what was still officially winter!) to discuss and develop a path forward to resolving implementation issues regarding Minnesota's river eutrophication standard. I think the face-to-face meeting was beneficial. I have included our comments in red below.

Best regards, Rebecca.

*Rebecca J. Flood*  
*Assistant Commissioner*  
*Minnesota Pollution Control Agency*  
*651-757-2022*

*Our mission is to protect and improve the environment and enhance human health.*

---

**From:** Korleski, Christopher [<mailto:korleski.christopher@epa.gov>]

**Sent:** Tuesday, April 11, 2017 1:38 PM

**To:** Flood, Rebecca (MPCA) <[rebecca.flood@state.mn.us](mailto:rebecca.flood@state.mn.us)>

**Cc:** Pierard, Kevin <[pierard.kevin@epa.gov](mailto:pierard.kevin@epa.gov)>; Bauer, Candice <[bauer.candice@epa.gov](mailto:bauer.candice@epa.gov)>; Ireland, Scott <[ireland.scott@epa.gov](mailto:ireland.scott@epa.gov)>; Henry, Timothy <[henry.timothy@epa.gov](mailto:henry.timothy@epa.gov)>; Prichard, Gary <[prichard.gary@epa.gov](mailto:prichard.gary@epa.gov)>; Korleski, Christopher <[korleski.christopher@epa.gov](mailto:korleski.christopher@epa.gov)>

**Subject:** MPCA NPDES limits for phosphorus

Hi Rebecca:

Many thanks to you and your team for hosting us on March 14-15 at your offices to discuss MPCA's approach to implementing river eutrophication standards. As a result of that meeting, I believe that we now have a promising path forward to resolving the complex issues we discussed.

To quickly summarize the results of our meeting, I think we agreed that:

- MPCA would draft and share with EPA for comment MPCA's proposed language (for inclusion in permit fact sheets) that summarizes Minnesota's existing and planned efforts and approaches to tackle phosphorus discharges from non-point sources. We discussed that, for a particular permit, the fact sheet should address both statewide approaches as well as more localized nonpoint source reduction approaches being undertaken in the watershed where the permit is being issued.

MPCA Comment: MPCA staff have drafted the attached fact sheet on non-point source reductions. EPA staff have already provided, as a starting point, an outline of what EPA would like to see in the fact sheet for each permit. We appreciate your staff providing this outline, but the way they have described when it is needed suggests a continued misunderstanding of the approach MPCA is using to set limits.

The staff have shared language that states that MPCA would provide this information for permits where limits are based on "future nonpoint source reductions being achieved in the watershed" or where limits are based in part on assumption "that phosphorus reductions will occur in the watershed through nonpoint source controls".

Our effluent limit setting process is designed to make TP limit decisions based on what the point source needs to do to achieve the water quality standard. What the point source needs to do is independent of what the nonpoint sources need to do, so in that sense decisions about TP limits have nothing to do with assumptions about nonpoint source reductions. They are independent questions, both of which need to be answered and addressed to

ultimately meet the water quality standard. In that sense, yes, the MPCA's limits do assume that there will be nonpoint source reductions because they assume that everyone does their fair share to get the reductions that result in the standard being met. However, the point source limits are not in any way relaxed or less stringent because of assumptions about nonpoint source actions.

We were able to sit in on a conference call on April 12th that your staff held with some environmental advocates, which we really appreciate. Kevin and Linda in particular did a great job discussing our process and program in light of the conversations we had last month. However, a few comments by the environmental advocates, along with the language from the email about the nonpoint source fact sheet, raised our concern that there is still a lack of clarity on how limits are being set and the relationship between point and nonpoint source reductions.

- As long as the Delano permit is issued with a concentration based P limit of 0.53 mg/L, and the accompanying fact sheet included agreed-upon language (see above) summarizing Minnesota's existing and planned efforts and approaches to tackle phosphorus discharges from non-point sources, EPA would not object to the permit. **MPCA Comment: since EPA expressed its position in writing, our notes indicate that we agreed that EPA would send us a letter to document its updated position regarding the Delano Permit (to supersede your previous comment letter.)**
- In general, EPA favors the use of enforceable concentration-based P limits in permits, but acknowledges that there are cases where such limits may not be appropriate. EPA and MPCA agreed that looking at different categories of permitting scenarios would be a useful tool in determining when concentration-based P limits would be appropriate and when they would not. Our respective teams agreed to work together to begin identifying permitting scenario categories. **MPCA Comment: I understand that our staff have been in conversation about this and that we have provided scenarios for discussion. In our March meeting, we agreed that we would reach a conclusion on this quickly, so that there is clarity moving forward and that permit actions could move forward.**
- EPA asked MPCA to consider utilizing other additional activities and approaches not currently being used in Minnesota (e.g., water quality trading, multiple discharger variances, etc.) to further reduce the contribution of P from point and non-point sources into Minnesota's waters. MPCA agreed to look into its existing legal authorities and to provide EPA with its analysis of this issue. **MPCA Comment: We are open to utilizing a variety of tools to accomplish phosphorus reductions, as appropriate for Minnesota's program. Minnesota has the authority to authorize trading (and has done so on several occasions) and to issue variances.**
- After the development of the categories of permitting scenarios, EPA and MPCA will continue to work toward agreement on when concentration-based P limits or other permit conditions are appropriate and when they are not. Assuming agreements in principle can be reached on these issues, and EPA confirms that MPCA is issuing permits in accordance with these agreements, EPA would anticipate reducing the number of nutrient permit reviews. **MPCA Comment: We would like clarification on how you want to "work toward agreement on when concentration-based P limits or other permit conditions are appropriate and when they are not". Steve and Nicole would appreciate further conversation with Candice and Scott to work out the details on what you want to work through and how we will do it; if it is going to be through permit reviews or another means. Additionally, we need to reach an understanding quickly (so that this issue does not continue to go unresolved) regarding how the focused phosphorus review process will change in the short and long term. In our meeting, Kevin stated that EPA is considering moving to an "audit approach" for the permitting program, rather than "real-time reviews." We support this approach and believe it will lead to more timely permit issuance.**

It is EPA's hope that Minnesota's comprehensive approach to funding and implementing nonpoint source control measures, in conjunction with appropriate permit limits on P at wastewater treatment plants and other permitted sources, will lead to a restoration of water quality in numerous Minnesota waters.

Finally, I am aware of the upcoming call amongst our staff to discuss next steps on this issue and look forward to hearing more about the outcome and progress of that discussion. If you have further questions or feedback, please feel free to contact me. I look forward to working with you and your staff to resolve this issue.

Thanks.

Chris

---

Chris Korleski  
Director, Water Division, Region 5  
U.S. Environmental Protection Agency  
77 W. Jackson Blvd. (W-15J)  
Chicago, IL 60604  
312 886-1432 (Liz Rosado, Assistant)  
312 353-5498 (General Office Number)  
[korleski.christopher@epa.gov](mailto:korleski.christopher@epa.gov)